

Financing loss and damage: Overview of tax/levy instruments under discussion

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This purpose of this *Note* is to inform about the various options of tax/levy instruments that are on the table to increase climate finance. It does not provide for an in-depth analysis of the instruments that are currently envisaged in the run-up to the Paris Summit and COP28/CMA5. Rather, it aims to be informative, explaining what they are and how they would work in a concise manner while considering key aspects for their implementation (challenges for operationalization and timing).

Several instruments have been selected, with a focus on those which are directly related to activities or products which are responsible for GHG emissions (Fossil Fuel Extraction Levy, Air Passenger/Ticket Levy, IMO GHG Levy) or to benefits obtained from fossil fuels generating GHG emissions (Windfall Tax/Energy Profits). Some others are mentioned as they have a potential to mobilize significant resources (e.g. Financial Transaction Tax, Financial sector tax for sustainable finance, Tax on stock buyback).

INTRODUCTION

Having noted with grave concern the growing gravity, scope and frequency in all regions of loss and damage associated with the adverse effects of climate change on the one hand, and the significant financial costs associated with loss and damage for developing countries on the other hand, Contracting Parties to both the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Climate Agreement have taken a historical decision to establish a fund for responding to loss and damage at the Sharm el-Sheikh Conference (COP27 and CMA4). A transitional committee has been established to work on the operationalization of this new loss and damage fund, which should be adopted at COP28/CMA5 (November 2023).

In support of both the Sharm el-Sheikh Plan of Implementation calling for a reform of the international financial architecture and the Bridgetown Agenda aiming at a new approach to provide finance to developing countries in a climate crisis, French President Macron and Barbados Prime Minister Mottley have proposed a Summit on a new "Global Financing Pact" to be held in Paris on June 22-23, 2023.

This Paris Summit takes place in the broader context of multilateral development banks (MDBs) reforms, including the evolution of the World Bank Group's mission, its operating model, and financial capacity, and G20's review of MDBs' Capital Adequacy Frameworks (CAF). Four working groups (WG) have been set up to prepare the summit. The WG4 "Developing the innovative solutions to provide additional resources in support of countries vulnerable to climate change" focuses on how to unlock new sources of finance at the benefit of those countries most exposed to climate change. Co-chaired by France and Barbados, the WG4 provides for the place to discuss about new sources for climate finance and/or more specifically loss and damage while promoting the principles of the Bridgetown initiative.

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1. FOSSIL FUEL EXTRACTION LEVY

Also called the Climate Damages Tax by some proponents, the Fossil Fuel Extraction Levy is envisaged as a global tax imposed on oil, gas and coal producers. It would be charged for each ton of coal, barrel of oil or cubic meter of gas extracted at a level that would reflect on how much CO₂ is embedded in each ton of fossil fuel extracted. It could provide a new and predictable source of finance while increasing the fossil fuels' extraction and use costs, and ensure that the entities whose products are responsible for causing climate change meet the costs of loss and damage, and adaptation/transition.

Indeed, some analysis¹ shows that around 100 fossil fuel companies have contributed to more than 50% of global GHG emissions since the start of the industrial revolution (1750 AD), which are responsible for climate change causing today loss and damage in vulnerable countries, notably developing countries. Hence, for its proponents, the Fossil Fuel Extraction Levy is the best illustrating case for applying the polluter-pays principle enshrined by the 1972 Stockholm and 1992 Rio Declarations, not only to ensure that those who produce pollution should bear the costs of managing it, but also to prevent damage to human health or the environment by internalizing the external costs for climate change mitigation, with a price signal that effectively incentivizes a shift towards decarbonization.

It is estimated that the Fossil Fuel Extraction Levy could raise significant amounts of financial resources: with a global rate that would apply in all jurisdictions (in order to avoid tax evasion or market distortion) at 6\$ per ton of CO₂ (calculated on the basis of emission factors for each type of fuel extracted), it could raise 150 billion \$ per year. Some propose to address the equity imperative by leaving 100% of revenues to the low-income countries where the levy is applied, but that developed countries give 50% to the loss and damage fund, which is estimated to be around 75 billion \$ per year.² Others suggest to start with a 5\$/ton levy, but with a progression of 5\$/ton each year until 2030 and then of 10\$/ton until 2050 so as to reach a level of 250\$/ton by then (Stamp out Poverty).³

Channeling the responsibility on individual companies, the Fossil Fuel Extraction Levy should be paid by oil, gas and coal producers directly to the loss and damage fund established under the UNFCCC/Paris Agreement. As of today, even though fossil fuel levies exist in all regions of the world with different levels of taxation, there is no experience of applying a global tax on fossil fuels. However, it is widely recognized that the two International Oil Pollution Compensation Funds (IOPC Funds) constitute a very relevant precedent to support the feasibility of such a levy applied to the extraction of fossil fuels. In effect, the IOPC Funds provide financial compensation for oil pollution

damage that result from spills of persistent oil from tankers. They have been established in the framework of the 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 Civil Liability Convention) and the 1971 International Convention on the Establishment of an International Fund for Compensation for Oil Pollution (1971 Fund Convention). The IOPC Funds are financed by contributions paid by private entities that receive certain types of oil by sea transport. Such contributions are based on the amount of oil they receive per year and cover expected claims and administrative costs of the two IOPC Funds.

As for the Fossil Fuel Extraction Levy, it would be necessary to reach an agreement by consensus under the auspices of the UNFCCC and the Paris Agreement, and then Contracting Parties to adopt national measures to oblige companies under their jurisdictions to pay directly the loss and damage fund. It is likely to face some political opposition from the biggest oil/gas and, to a lesser extent, coal producing countries, most of them being developing countries under the UNFCCC. One can expect that Small Islands Developing States (SIDS) where fossil fuels are extracted such as Trinidad and Tobago, Papua New Guinea, Cuba, Timor-Leste, and Singapore could support this levy on the condition that they can keep all or a big part of revenues collected with companies based on their territories and/or that they can largely benefit from the loss and damage fund.

2. AIR PASSENGER/TICKET LEVY

Basically, the Air Passenger or Ticket Levy is a purchase tax on air tickets. It applies to a service, namely passenger air transport, that entails negative externalities. However, it is not based on GHG emissions generated by the kerosene used to go from a point A to a point B, but on the simple fact of travelling by air; it is a redistribution mechanism.

It can apply to both domestic and international aviation and its level may be adjusted to the different types of passengers in order to take account of their capacity to pay (economic *versus* business class). Indeed, a tax on frequent flyers would be more socially acceptable than a flat rate per flight irrespective of each passenger's wealth (ICCT).⁴

It is quite easy for airlines to collect the proceeds, when the passenger purchases his/her ticket, and then to channel them to the dedicated fund (for instance loss and damage fund) provided a proper legal framework exists for making such payment. If applied at the global level, the costs associated with the levy would certainly be passed on through by airlines to all passengers.

The idea to apply an Air Passenger/Ticket Levy is not new in the framework of international cooperation on climate change. In 2008 at COP14 to the UNFCCC, the Group of Least Developed Countries (LDC) proposed the International Airline Passenger Levy (IAPAL) with flat fee rate of 5\$ (economic) or

1 CDP (2017), [Carbon Major Reports](#)

2 Climate Action Network (2018). Submission on the Scope of the Technical Paper Exploring Sources of Support for Loss and Damage and Modalities for Accessing Support, February 2018.

3 Stamp out poverty (2018). [The Climate Damages Tax: A guide to what it is and how it works.](#)

4 ICCT-International Council on Clean Transportation (2022). [Aviation climate finance using a global frequent flyer levy](#)

10\$ (business) on international airline tickets. At that time, it was estimated that this could raise between 8 and 10 billion \$/year for the Adaptation Fund of the Kyoto Protocol.⁵ However, some SIDS opposed the proposal as they feared it would impact the tourism sector negatively.

The IAPAL derived from the solidarity levy on airline tickets that was applied since 2006 on a voluntary basis by several countries in response to 2005 UN "Declaration on Innovative Sources of Financing for Development", in order to finance health programmes (to prevent and treat HIV/AIDS, malaria, and tuberculosis) in low- and middle-income countries, mostly through UNITAID. In France, the solidarity levy applies to passengers departing from French airports, with a progressive rate varying from 1 to 40€ depending on the class of air travel service and destination. Together with France, a number of other countries, including developing countries (Cameroon, Chile, Congo, Ivory Coast, Madagascar, Mauritius, Niger, and South Korea), participate in the solidarity levy programme, but each of them decides the amount of its levy at domestic level and how much of the collected proceeds should be allocated to support a common cause. It is estimated that 180 million € per year are collected from the solidarity levy France and about 22 million € from the other participating countries.

As of today, there is no international tax or level on air passenger tickets. With a constantly growing air travel sector since 2006, the LDC Group would like to retake its proposal and push for it in the run-up to COP28 to the UNFCCC.

With a non substitutable transport mode for long distances and forecasts for air travel showing an increase in average of 4.3% per annum over the next 20 years (source ICAO, International Civil Aviation Organization⁶), the Air Passenger/Ticket Levy can provide for a predictable source of climate finance increasing over time. Some proponents (Equal international) estimates that with a low rate of 2%, the levy could raise up to 17 billion \$ per year (assuming pre-Covid figures for the number of passengers). Just within the EU, the levy could raise up to 6 billion € per year with a minimum fee rate of 10€ per ticket on international flights only (Ricardo, 2021).⁷

Based on the IAPAL experience, there seems to be no practical obstacle for the introduction of the Air Passenger/Ticket Levy in a short timeframe. However, the legal feasibility of a mandatory Air Passenger/Ticket Levy largely depends on a decision to be made either under the ICAO which could apply directly to airlines or under the UNFCCC and the Paris Agreement, which would then have to be translated at the national level to ensure that all countries enforce it *vis a vis* those airlines placed under their jurisdiction. One can expect a strong opposition of the airline and tourism industry, despite a growing buy-in from the general public and the fact that international aviation has always benefited from a privileged tax regime. In particular,

the International Air Transport Association may argue that this levy would lead to a situation of double regulation (and double taxation) overlapping with the Carbon Offsetting and Reduction Scheme for International Aviation (CORSIA) under the ICAO as well with the EU Emissions Trading Scheme, which covers aviation for flights departing from and arriving in the EU.

In terms of equity, there are a number of proposals to adjust the respective contributions of developed and developing countries, including among developing countries to address the special circumstances of SIDS and LDCs. They vary from granting exemptions to applying a progressive fee rate depending on the distance of the destination, including some combination of the two.

3. IMO GHG LEVY

In June 2021, the Marshall and Solomon Islands proposed to apply a universal mandatory levy on international shipping. The proposed levy would apply to all international voyages without exemption. Each ship would be required to pay an amount determined by the level of its GHG emissions, calculated on the basis of the GHG content of heavy fuel oil used (e.g. quantity of fuel multiplied by an emission factor). This levy would be collected directly from ship operators, when they pay for their fuel. And payments would go to a dedicated fund, which may be a new one established and supervised by the International Maritime Organization (IMO), as per the model of the two abovementioned IOPC Funds, or another fund established under another framework, for instance the Green Climate Fund.

The IMO is the United Nations specialized agency in charge of the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. In 2018, the IMO adopted its initial GHG Emissions Reduction Strategy including a target to cut annual GHG emissions from international shipping by at least 50% by 2050 as compared to their 2008 level, and an intermediary target of -40% of carbon intensity by 2030. In as far as these targets are not aligned with the Paris Agreement global objectives, the IMO has decided to revise its initial strategy and adopt new and more ambitious targets, including mid-term measures, in line with the 1.5°C objective by July 2023 at the 80th session of the Marine Environment Protection Committee (MEPC80). In preparation of the MEPC 79 (December 2022), the 12th meeting Intersessional Working Group on GHG (ISWG-GHG12, May 2022) found a consensus according to which the IMO should put a price on carbon as part of the basket of mid-term measures supporting the longer-term decarbonization of international shipping sector. Discussions on the level of the carbon price and the use of revenues, including for supporting an equitable and just transition, are going on for preparing the decision to be made in July 2023 on a revised GHG strategy and emission pathway for the shipping industry, including target(s) aligned with the Paris Agreement and mid-term supporting measures. Then, as from July 2023, the IMO will discuss in more details the design features of such mid-term measures, including carbon pricing, in view of their final adoption and implementation in 2025.

5 Reported by Huq and Khan, ICCCAD, in Daily Star, Bangladesh, 14 February 2023.

6 <https://www.icao.int/Meetings/FutureOfAviation/Pages/default.aspx>

7 Ricardo for the DG TAXUD (2021), [Study on the taxation of the air transport sector](#)

There is a common view that GHG pricing should incentivize international shipping full decarbonization by 2050, but there are very divergent views on whether and how much revenues should be spent, in or outside of the sector. Therefore, there is range of GHG pricing proposals on the table, with different approaches to use proceeds that could be collected.⁸ As an example, the Marshall Islands & Solomon Islands' proposal starts with a levy at 100\$/tCO₂e, starting in 2025 with upward ratchets on a five-year review cycle, covering all GHGs from well-to-wake (WTW) (e.g. every stage from fuel production to onboard use), with 50% of revenues to be used as climate finance for the most vulnerable. The industry also supports carbon pricing. Maersk CEO suggested a 150\$/tCO₂e levy, whereas Trafigura has recently proposed a carbon levy of between 250 and 300\$/tCO₂e the revenues of which should be primarily used to subsidize and incentivize low- and zero-carbon fuels and subsequently to fund the research and development of alternative fuels, and *"in part to help Small Island Developing States and other developing countries with the energy transition and to mitigate the impact of climate change"*.

Recent studies show that the IMO GHG levy could raise significant revenues. In a scenario of full decarbonization by 2050, revenues from a 100\$/tCO₂e levy could total between 1 and 2 trillion\$,⁹ amounting to over 60 billion\$ per year according to the World Bank (2022)¹⁰ and 80 billion \$ per year according to the Pacific States supporting the levy. With a flat carbon levy of \$250/tCO₂e, another study estimates that it could raise a total of around \$3.7 trillion by 2050.¹¹ Still, even starting with such a CO₂ price level, it would be necessary to think about a price trajectory over time that would be consistent with the attainment of the Paris Agreement objectives.

A key question is how to address equity in the implementation of the levy. Some remote countries would be negatively and disproportionately affected by the levy, not only because their economies depend on international shipping but also because they may not have the capacity to pay decarbonization costs, in particular for improving the maritime and energy infrastructure. This is particularly the case of SIDS, who are also threatened by loss and damage resulting from the adverse effects of climate change. The allocation of revenues therefore needs to strike a delicate balance: decarbonizing the shipping sector with the right level playing field and meeting the priority needs of the most vulnerable countries who are depending on shipping.

4. TAX ON WINDFALL FOSSIL FUELS PROFITS

This tax is levied on an unforeseen large profit obtained thanks to special economic conditions, which can be regarded to be excessive or unfairly obtained. Windfall taxes are levied on those who have benefited the most from the windfall, so they do usually cover a limited number of subjects and in a retroactive manner. Most of the windfall taxes stop when the unusual favorable circumstances are no longer operating. Therefore, one important limitation is that a windfall tax is temporary, at least it does not apply in a linear manner and requires some specific criteria for determining when windfalls happen and for how long.

In its opening speech for the high-level segment of the last UN General Assembly in September 2022, UN Secretary General António Guterres called upon developed countries to impose windfall taxes on fossil fuel companies¹² that made record profits because of the worldwide energy crisis resulting from the Ukraine invasion. He said that revenues should be distributed *"to vulnerable countries suffering from the climate crisis and to people struggling with rising food and energy prices"*. From that perspective and in that particular context, a windfall tax on energy companies does effectively reflect the polluter-pays principle.

There is no experience of an international tax on windfall profits, but there are several national or regional level examples.

- In the EU, after Spain, Greece, Italy, Hungary, Romania and Bulgaria, the Czech Republic adopted a 60% windfall tax in November 2022 for energy, oil, and mining companies as well as banks, which should raise 3.5 billion € in 2023.¹³
- At the EU level a temporary windfall tax was approved in September 2022 on oil and gas profits, which focuses very much on electricity utilities: besides the levy on fossil fuel companies' excessive profits made in 2022 or 2023, there is another levy on excess revenues that low-cost power producers make from soaring electricity costs.
- In the UK, the government has introduced the Energy Profits levy imposing a 25% surcharge on the extraordinary energy oil and gas producers, raising 5 billion£ (5.7billion€) in 2022.¹⁴
- In the US, President Biden did not manage to pass legislation in Congress for the adoption of a 21% additional tax on the excess profits of oil and gas companies that could have raised 1 billion\$ per year if adopted.¹⁵

In as far as a windfall tax is temporary and limited to some sectors, it cannot provide for a predictable and long-term source

⁸ International Transport Forum-OECD (2022). [Carbon Pricing in Shipping](#).

⁹ Baresic *et al.* (2022). [Closing the Gap An Overview of the Policy Options to Close the Competitiveness Gap and Enable an Equitable Zero-Emission Fuel Transition in Shipping](#)

¹⁰ World Bank (2022). [Carbon Revenues From International Shipping : Enabling an Effective and Equitable Energy Transition](#)

¹¹ Mærsk Mc-Kinney Møller Center for Zero Carbon Shipping (2021). [Options paper on market-based measures](#)

¹² Climate Home News (2022). <https://climatechangenews.com/2022/09/20/un-chief-windfall-tax-on-oil-and-gas-can-pay-for-loss-and-damage/> (September 20, 2022).

¹³ Euractiv (2022). [Czech parliament adopts 60% windfall tax for energy companies, banks](#)

¹⁴ [Energy Profits factsheet, Gov UK, 26th May 2022.](#)

¹⁵ Reuters (2022). <https://www.reuters.com/business/energy/bidens-threatened-windfall-oil-tax-unlikely-pass-us-congress-2022-11-02/>

of climate finance. Another limitation is that revenues are necessarily to be collected at the national (or regional) level. There can be some international coordination to avoid cross border tax spillovers as well to ensure transparency on the application of windfall taxes at the national level, but it would remain the responsibility and ultimate decision of the each and every government to allocate revenues to an international loss and damage fund.

5. OTHER TAX INSTRUMENTS NOT DIRECTLY RELATED TO GHG EMISSIONS

a) Financial transaction tax

A financial transaction tax (FTT) is a levy put on financial instruments/contracts like bonds, stocks, options, and derivatives. It can also apply to monetary transactions, in particular foreign currency exchange. It is widely recognized that FTTs can raise significant amount of revenues, even with a very low rate, simply because of the daily volume of transactions on financial and currency markets, notably in developed countries.

Proponents of imposing FTTs argue that, beyond the substantial revenues it can raise, it is a progressive tax, providing a very predictable source of finance provided by the wealthiest who can pay, without disturbing financial markets if the levy remains low. Opponents object that, beyond an increase of transaction costs, it reduces trading frequency and volumes while increasing market volatility.¹⁶

FTTs are easy to operationalize at the domestic level in a short timeframe. A number of developed (for instance the USA to fund the Federal Securities and Exchange Commission at a level of 0,00051%) but also developing countries (for example India) have already implemented FTTs to generate funds for domestic use. Since 2013, a negotiation is going on to establish a regional FTT at 0,01% through the enhanced cooperation among 11 EU Member States, after the failure to obtain unanimous support from all Member States on a wide FTT initially tabled by the European Commission in 2011. After several years of unsuccessful discussion, the Commission should make a new proposal in 2024 for an FTT that would create a new own resource of the EU budget.

The idea to use FTT as a source of climate finance is not new. In 2010 already, the UN High-Level Advisory Group on Climate Financing ("AGF")¹⁷ considered the option of using revenues from a FTT. Since then, all climate NGOs (notably Climate Action Network and Oxfam) have been strongly advocating for imposing FTTs to generate additional and predictable climate finance.

¹⁶ Klein, A. (2020). [What is a financial transaction tax ?](#) Brooking.

¹⁷ AGF (2010). [Report of the Secretary General High-Level Advisory Group on Financing Climate Change](#)

In terms of revenues, the AGF estimated in 2012 that FTTs could raise between 7-16 billion US\$ per year. The European Commission estimated that a EU-wide FTT could have raised almost 80 billion \$US per year (EC, 2013).¹⁸ For Oxfam, a FTT applied in even a limited number of (10) Member States engaging in enhanced cooperation could have generated about 5-10 billion US\$.¹⁹ At the national level, the Congressional Budget Office has estimated that, with the FTT rate at 0,1% that was proposed by the Democrats in 2020, it could generate on average 77,7 billion \$US per year (0,5% US GDP).²⁰

b) Other taxes (tax on stock buyback, and wealth tax /financial sector tax for sustainable finance)

There are a number of tax initiatives going on in many countries to raise revenues from the wealthiest or to support sustainable finance for shifting towards sustainable investments, notably in the EU for implementing the Green Deal.

There is a growing interest in applying a tax on "stock buyback" like the one recently introduced at a 1% rate by the Inflation Reduction Act (IRA) in the USA, in order to innovative source of funding that could be redirected toward climate priorities. Basically, the buyback tax works when a company purchases shares of its own stock on the public market. In other words, it is a share repurchase. It happens when companies have some available cash and that, instead of distributing to shareholders, it purchases its own shares. Shareholders must pay an income tax when they receive dividends. When they decide not to sell their shares during a buyback, they hold a rise in the share value which, on the top of it, is regarded as unrealized gains which were not subject to any tax in the USA before the IRA was adopted. The proposed 1% tax is expected to raise about 74 billion \$US for the next 10 years;²¹ Financial markets analysts (S&P500 index) calculated it can generate around 10 billion \$US per year. In February 2023, President Biden said the buyback tax should be even higher, from 1 to 4%. A similar tax is also discussed in Canada. It also already exists in a number of EU Member States (for example in Belgium), but there is no allocation of revenues towards climate finance or decarbonization.

A wealth tax is applying on assets owned by persons in the highest percent of net wealth in the world. The IMF has called for the use of capital and wealth taxes. recently, Oxfam has called for applying a tax of up to 5% on the world's multi-millionaires and billionaires, which could raise 1.7 trillion \$US a year.²²

Tax schemes are envisaged to promote the sustainability of financial products, which could play the role of tax incentives for

¹⁸ DG Taxud (2013). [Impact Assessment for a Financial Transaction Tax](#) (SWD(2013) 28 final)

¹⁹ Oxfam (2012). [Financial Transaction Tax campaign: Evaluation report 2012, Cambridge Policy Consultants.](#)

²⁰ Ibid 17.

²¹ Theo Vermaelen, INSEAD (2023), [Biden's Misguided Tax on Share Buybacks](#)

²² Oxfam (2023), [Survival of the Richest - How we must tax the super-rich now to fight inequality](#)

low-carbon products or investments. The 2°C Investing Initiative has identified two options in particular that could contribute to climate mitigation: tax/incentives on high carbon/green savings schemes and pension products, and an adjustment of the bank levy based on high or low-carbon assets, having in mind that the rates currently applied do not take account of the sustainability of the investment.²³ In terms of revenues that could be raised, the Dutch Bank levy generated around 500 million € in 2018, and the UK Bank levy raised 2.6 billion € in 2020/2021.

For all these taxes that are not directly related to GHG emissions (FTT, tax on sustainable finance, tax on buyback stock, wealth tax), international coordination is required to ensure tax payment and allocation as well as to avoid tax evasion. Indeed, such levies should be collected by national authorities and transferred to the loss and damage fund. In that respect, the OECD/G20 initiatives (Inclusive Framework to reform the taxation of multinationals: Base Erosion and profit Shifting BEPS 2016)²⁴ may serve as a useful precedent to find ways to overcome the key obstacle of national sovereignty when it comes to taxation, but discussions to find an agreement may take a lot of time, without having that assurance of a full participation by all countries active on financial markets.

As this *Note* shows, several options have already been researched in depth to provide additional sources for climate finance. Selecting which one(s) to pursue can be based on a range of criteria, ranging from their ability to raise finance at scale, the possibility to limit socially regressive impacts and to consider equity in its application, and its short-term feasibility (both legally and in terms of political economy). Considering the current process under the International Maritime Organisation, authors will produce a more detailed paper exploring the maritime carbon levy focusing on the equity dimension (equity in taxation and in revenue allocation).

23 [How Can Financial Sector Taxes Contribute to Climate Goals? A Review of Policy Options March 2021, 2° Investing Initiative.](#)

24 <https://www.oecd.org/tax/beps/>

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